

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 3:012. Public use of Otter Creek Outdoor Recreation Area.

RELATES TO: KRS 150.010, 150.240, 150.620, 150.640, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.240(2), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits, and to make these requirements apply to a limited area. KRS 150.240(2) authorizes the department to promulgate administrative regulations to establish permits for public or commercial shooting areas. KRS 150.620 authorizes the department's Commission to acquire, improve, and maintain lands for public shooting, fishing, and other recreational uses, to impose and enforce special regulations in the maintenance and operation of these lands, to pay for the cost of the operations and maintenance of these areas, and to charge fair and reasonable fees to the public for use of these areas. This administrative regulation establishes requirements for the use of the Otter Creek Outdoor Recreation Area.

Section 1. Definitions. (1) "Camp Piomingo" means a designated area within Otter Creek Outdoor Recreation Area that is leased from the department for an outdoor summer camp.

(2) "Event" means a planned gathering of thirty (30) or more people twelve (12) years or older on the area at the same time.

(3) "Shooting range" means a department built:

(a) Firearm target range facility in which a person is required to shoot through a metal tube at various stationary targets; or

(b) Archery range facility in which a person shoots at stationary targets from specified locations.

Section 2. General Area Use Restrictions. (1) A person, except for permit exempt individuals, shall possess and carry:

(a) A valid daily or annual Area Entry Permit when using the Otter Creek Outdoor Recreation Area; and

(b) A valid daily or annual Special Activities Permit if:

1. Biking on designated trails;

2. Horseback riding on designated trails; or

3. Using designated shooting range facilities.

(2) The department may enter into a lease agreement with Camp Piomingo to establish an annual flat-rate fee that~~which~~ allows permit-exempt use of the area by Camp Piomingo:

(a) Campers; and

(b) Staff.

(3) A person shall not be on the area when the area is closed, except for:

(a) Registered campers at the designated campground area;

(b) Authorized hunters;

(c) Department staff;

(d) Department authorized contractors; or

(e[e]) Individuals taking part in a[A] special activity or event authorized by the department.

(4) The department shall notify the public when the area is closed by:

(a) A pre-recorded phone message;

- (b) An internet posting; and
- (c) Visible signage on the area.
- (5) A person shall park vehicles in designated parking areas only.
- (6) A person who is hunting, fishing, trapping, or boating on the area shall follow all applicable administrative regulation requirements pursuant to 301 KAR Chapters 1, 2, 3, and 6;
- (7) The area shall be closed to the general public, except for authorized hunters, during:
 - (a) A firearms deer quota hunt pursuant to 301 KAR 2:178; and
 - (b) Spring turkey season, pursuant to 301 KAR 2:142.
- (8) The following activities are prohibited without prior department authorization:
 - (a) Cutting or removing live or standing trees, shrubs, or other vegetation;
 - (b) Riding motorized all-terrain or off-highway vehicles;
 - (c) Allowing unleashed dogs, except at times and areas designated by the department;
 - (d) Camping, except in designated areas;
 - (e) Setting fires, except for attended fires:
 - 1. In designated camping areas; or
 - 2. In grills at designated picnic areas.
 - (f) Blocking a roadway or gate;
 - (g) Igniting fireworks or rockets;
 - (h) Participating in a commercial activity or endeavor;
 - (i) Damaging or destroying crops or wildlife food plots;
 - (j) Damaging or defacing buildings, structures, signs, or other property;
 - (k) Hunting in an area closed to hunting;
 - (l) Tethering a horse to a tree, shrub, or sign; or
 - (m) Discharging a firearm:
 - 1. Within 100 yards of a building;
 - 2. Except on a designated firearm shooting range; or
 - 3. Except during an authorized hunting season in an authorized hunting area.

Section 3. Trail Requirements. (1) A person shall only ride a horse or bike on designated trails or roadways.

(2) A person shall not possess a wheeled vehicle other than a bike on a designated bike trail, except for department authorized maintenance activities.

(3) A person shall not ride a bike or a horse on designated trails that have been temporarily closed by the department due to:

- (a) Hunting activity;
- (b) Wet conditions;
- (c) Trail maintenance activity;
- (d) Downed trees;
- (e) Unsafe conditions; or
- (f) An event authorized by the department.

(4) The department shall provide the public with a reasonable notification system for temporary trail closures that includes:

- (a) A pre-recorded phone message;
- (b) An internet posting; and
- (c) Visible signage on the area.

Section 4. Event Permits. (1) A group of people conducting an event shall not meet on the area without first applying for and obtaining a completed Event Permit from the department.

(2) A person, on behalf of the people involved with an event, shall apply for an Event Permit at least thirty (30) days in advance of the planned event.

(3) The application for an Event Permit shall be on a form provided by the department.

(4) The department shall deny an Event Permit if the planned activity or event:

(a) Is prohibited pursuant to this administrative regulation; or

(b) Is in conflict with:

1. Another Event Permit activity already authorized by the department;

2. A hunting season;

3. A quota hunt; or

4. Recreational use of the area.

Section 5. Incorporation by Reference. (1) "Otter Creek Event Permit Application", 2011 Edition, is incorporated by reference.

(2) The permit application may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

RICH STORM, Commissioner

MIKE E. BERRY, Secretary

APPROVED BY AGENCY: July 14, 2021

FILED WITH LRC: August 5, 2021 at 9:27 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2021 at 1:00 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through October 31, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Beth Frazee

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes requirements for the use of the Otter Creek Outdoor Recreation Area.

(b) The necessity of the administrative regulation: This regulation is necessary to establish regulated uses and requirements on the Otter Creek outdoor recreation area.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits, and to make these requirements apply to a limited area. KRS 150.240(2) authorizes the department to promulgate administra-

tive regulations to establish permits for public or commercial shooting areas. KRS 150.620 authorizes the department's Commission to acquire, improve, and maintain lands for public shooting, fishing, and other recreational uses, to impose and enforce special regulations in the maintenance and operation of these lands, to pay for the cost of the operations and maintenance of these areas, and to charge fair and reasonable fees to the public for use of these areas.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By establishing seasons, bag limits, appropriate permits and fees and allowable uses on the area.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment cleans up and simplifies language in the existing regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary as part of the agencies continued efforts to update and simplify our regulations.

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Individuals utilizing outdoor recreation area's.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action needed to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not alter any costs for the entities in question (3). (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Safe and compliant use of the area.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional cost to the agency on a continuing basis.

(b) On a continuing basis: There will be no additional cost to the agency on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The source of funding is the KDFWR Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Additional fees or funding for direct implementation of this regulation are not necessary as the regulation already exists.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees. This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? No

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? No state or local government units will be impacted by this change.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), 150.240(2), 150.620

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated for state and local governments.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: